<u>ARTICLE 7 – PUBLIC SAFETY</u>

<u>Section 7.1 – Town of Reading Petroleum Storage Regulations</u>

7.1.1 – General Provisions

7.1.1.1 - Definitions

For purposes of these Regulations, the following words and phrases shall have the meanings given:

"Board" - the Town of Reading Board of Selectmen.

"Petroleum Products" – one or more of the following:

Crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (60°F and 14.7 lbs. per square inch absolute);

All liquid hydrocarbon products including, but not limited to, gasoline of any grade, motor fuels, kerosene, home heating oils, diesel fuels.

"Handle" – To use, to deal with, to act on, to sell, or manufacture, or to dispose of Petroleum Products.

"Operator" – The individual who has effective control of a business, a home occupation, an organization (for profit or non-profit), or office of a governmental agency located in the Town of Reading.

"Owner" – The individual who has legal ownership of a business, home occupation, or industry or the operator of an organization or governmental agency located in the Town of Reading. For the purpose of this Bylaw, the Board of Selectmen shall be entitled to rely on the most current list of owners in the records of the Reading Board of Assessors as providing sufficient evidence of ownership.

"Perennial Stream" – a body of running water, including rivers, brooks or creeks, which moves in a definite channel in the ground, and which flows throughout the year.

"Release" – The accidental or intentional spilling, leaking, pumping, discharging, pouring, emitting, emptying, or dumping of crude petroleum or any of its products upon or into any land, air, or waters of the Town of Reading. Release includes, without limitation, leakage of crude petroleum or any of its products from failed or discarded containers or storage systems; disposal of crude petroleum or any of its products into any sewage disposal system, dry well, catch basin, unapproved waste landfill; and any other discharge of crude petroleum or any of its products into the environment in the Town of Reading.

"Site" - Any real estate, personal property, facility, building, structure, installation, equipment, pipe, or pipeline including any pipe into a storm drain, sewer, or treatment works, well, pit, pond, lagoon, impoundment, ditch, tank, landfill, storage container, or any other place or area to, from, or at which crude petroleum or any of its products are stored, used, manufactured, sold, handled, disposed, or discharged.

"Store" - To keep or contain crude petroleum or any of its products in such a manner as not to constitute handling or otherwise use or disposal of such substances or materials. Notwithstanding the aforesaid, the term "store" shall not include the maintaining of crude petroleum or any of its products that are in transit.

"Threat of Release" - A substantial likelihood of a release that requires action to prevent or mitigate an imminent threat to the life, health, or safety of the public that may result from such release.

7.1.1.2 - Findings and Purpose

Environmental contamination can bankrupt site owners, lower or destroy land values, drive out residents and industry, depress the local economy, and endanger public health.

Most petroleum products do not readily decompose into harmless components but remain in dangerous forms and penetrate into and throughout the environment by moving through water, soil, and fissures in the bedrock.

The groundwater of the Town is a major environmental resource of the community and the region.

The Town receives all of its water from the MWRA System, but the Town must continue to maintain the capability to provide water from its existing water supply sources, maintain or improve ownership or control of Zone I for its wells, maintain or improve its Zone II wellhead protection, and maintain its existing water supply sources as an inactive water supply in accordance with Massachusetts Drinking Water Regulations.

Releases of crude petroleum or any of its products onto the ground and surface waters have adversely affected and repeatedly threaten the quality of the groundwater supplies and related surface water resources, posing substantial public health and safety hazards.

Unless stricter preventive measures are adopted to manage the storage, use, and generation of crude petroleum and its products and prohibit the release of these substances within the Town, further releases of such materials will predictably occur, and with greater frequency and degree of hazard by reason of increasing construction, commercial and industrial development, population, and vehicular traffic in the Town and surrounding areas. In addition, the cleanup of releases requires expeditious measures to avoid widespread environmental damage to the resources of the Town of Reading.

7.1.1.3 - Authority and Effective Date

These regulations are promulgated by the Board pursuant to its authority under Section 5.17 of the Town of Reading Bylaw. These regulations shall become effective as of May 1, 2007.

7.1.2 – Petroleum Registration

7.1.2.1 - Registration

Every owner and/or operator of a site where petroleum products totaling ten (10) gallons liquid volume or greater or ten (10) pounds dry weight or greater are stored or handled shall register with the Board of Selectmen within forty-five (45) days of the effective date of this Regulation or no less then thirty (30) days before any change which would require registration.

Registration shall include:

- (a) inventory of petroleum products to be stored, used, or handled, including the type and quantity of each petroleum product;
- (b) a description, including street address and Assessors Map and Parcel number of the site location where the petroleum products are being used, handled or stored accompanied by a map or drawing;
- (c) a description of the location within the site where the petroleum products are being used, handled, or stored, including a plan or drawing of said location;
- (d) description of the method of storage (i.e., in a 150-gallon tank), age of container, capacity of container; and
- (e) the names, addresses, telephone, email, and fax of the owner, the operator, and the applicant.

Registration shall be submitted on Form A, Registration, incorporated as part of these Regulations.

The Board of Selectmen, or their designee, shall review the registration information to determine whether an owner and/or operator is subject to the permit requirements set out in these Regulations and the Petroleum By-law. The Board shall notify the Owner and Operator within forty-five (45) days of submission of the Registration whether a permit will be required.

7.1.3 – Petroleum Permit Requirement

7.1.3.1 - Permit Required

Subject to the exceptions set forth below, no owner or operator shall store or handle any petroleum product, as defined above, in the Town of Reading unless a permit is obtained from the Board. This permit shall be in addition to any other permit or license required by state or local law or regulation. The owner and/or operator of any site on which such petroleum product is stored or handled shall submit a completed permit application to the Board within forty-five (45) days of notification by the Board of Selectmen under 2.1. The Board of Selectmen and/or the Fire Chief may schedule a site inspection.

No permit shall be required if all of the following criteria are satisfied:

The total quantity of all petroleum products on the site is less than ten (10) gallons liquid volume or less than ten (10) pounds dry weight.

The site is not located in an area of Town that presents a high risk to groundwater or surface water should a release of any amount occur, as said areas are delineated on the plan approved by the Board and attached hereto as Exhibit A. These areas include, but are not limited to, the area within the Aquifer Overlay District as shown on the most recent zoning map, land with the FEMA flood prone areas, estimated and priority habitat of state-listed species, certified vernal pools, and land within two hundred feet (200') of any river or perennial stream.

The Board shall only issue a permit under these Regulations after a public hearing, duly noticed by publication, at least seven days before the scheduled hearing, in a newspaper of general circulation in the Town of Reading and by mailing, by certified mail return receipt, notice of the time and place of the hearing to all owners of property abutting said site within 300 feet as certified by the Reading Assessor's Office and adjoining municipalities. The cost of such notice shall be borne by the applicant.

The Board may issue a permit under these Regulations for no more than five years or for a shorter time where the Board decides that a shorter time is appropriate in the best interests of the Town of Reading. Said permit may be renewed in accordance with the provisions of Section 3.3 below and shall expire if not renewed before the end of the initial time period.

Any such permit shall be subject to such conditions and restrictions as may be prescribed by the Board, which may include a condition that the permit be exercised to such extent and within such period as may be fixed by the Board. Prior to the close of the hearing, the Board shall require the written recommendation of the Reading Fire Department of the contingency plan set forth in the application in accordance with Section 3.2 below. The applicant shall be required to post said contingency plan on the site at a location acceptable to the Reading Fire Department.

Said permit must be amended in the event any change occurs as set forth in Section 3.4 below.

An applicant for permit, renewal permit, or amended permit shall pay a fee in accordance with the schedule of fees set forth in Section 3.5 below.

7.1.3.2 - Permit Application and Contingency Plan

An application for a petroleum storage permit shall be made in writing to the Board, on Form A incorporated as part of the Regulations, and shall provide all information requested on said form, including but not limited to the information set out at section 2.1 of these Regulations.

If a determination is made that a permit is required, the applicant shall submit Form B, the Contingency Plan, incorporated as part of these Regulations, The Contingency Plan shall provide all information requested on Form B, including but not limited to the following:

- a. where and how petroleum products will be stored
- b. where and how petroleum products will be handled
- c. methods for containing release of petroleum products
- d. measures to prevent and control releases
- e. inventory of containment and emergency equipment
- f. schedule of maintenance of containment and emergency equipment
- g. name, address, telephone, email, and fax number of person responsible for overseeing and implementing the contingency plan and reporting any release and the chain of notification for facility personnel and employees as well as responsible organizations who would be alerted in the event of a release or emergency
 - h. evacuation scheme for the site

The Fire Department shall review the Contingency Plan and send written recommendations to the Board of Selectmen prior to the close of the hearing on said application.

7.1.3.3 - Renewal of Permit

At least sixty (60) days prior to the expiration of a permit, the owner and/or operator may apply to the Board for renewal of the permit. The application shall be made in writing to the Board on the form approved by the Board.

The Board may renew a permit for a maximum of five years or for a period of less than five years where the Board decides that such shorter time is appropriate in the best interests in the Town of Reading.

Upon receipt for a renewal, the Fire Chief or other qualified person may schedule a site inspection.

The Board may, but need not, conduct a public hearing upon the application for renewal and may issue at a public meeting such renewal permit. The minimum requirements for renewal of a permit shall include a completed renewal application (Form A), a complete inventory, and a satisfactory contingency plan (Form B). The Board may impose conditions upon the rene wal permit.

7.1.3.4 - Amended Permit

Any permit issued pursuant to these regulations must be amended where the owner or operator wishes to change any terms or conditions of the permit or the Contingency plan, without expansion or enlargement, upon which the local permit was issued. An application for amended permit must be submitted not less than thirty (30) days prior to an anticipated change. A change includes but is not limited to, any change in owner or operator of the site or any change of petroleum products stored.

Any person seeking amendment of a permit must apply in writing to the Board on Form A The Board may issue an amended permit after a favorable site inspection and public hearing as provided in Section 1 above.

A permit may not be amended to allow expansion of the originally permitted activity. If the Board determines that the amendment constitutes an enlargement, the applicant will be directed to file an application for a new permit.

7.1.3.5 - Fees

In addition to the cost of notice of any public hearing, the applicant shall pay the following fees:

- a. Registration no fee
- b. Permit \$100.00. plus \$50.00 per tank
- c. Renewal Permit \$100.00
- d. Amended Permit \$100.00

7.1.3.6 - Abandonment of Use

Where the site ceases to be used for the keeping, storage, use, manufacture, sale, handling, or disposing of petroleum products, the owner and/or operator shall send written notification to the Board of Selectmen at least thirty days in advance of the discontinuance of such use. All products shall be removed from the site and disposed pursuant to federal and state laws. Notification shall include, but not be limited to, a listing of all products being discontinued, method of disposal, and the disposal site.

7.1.4 - ADMINISTRATION

7.1.4.1 - Prohibitions

A. No person shall release any petroleum products upon the ground; into any surface water or groundwater; or into any sewage disposal system, catch basin, dry well, stormwater management structure, or drainage structure within the Town of Reading. Maintaining a site that constitutes a threat of release of petroleum products is prohibited. If a release occurs there shall be immediate notice to the Fire Department.

B. Storage

- 1. All petroleum products shall be stored in product-tight containers.
- 2. No container over thirty (30) years old shall be used for storage of petroleum products in the Town of Reading unless authorized by the Board based on materials or condition of the container. Any container over thirty (30) years old or that reaches the age of thirty (30) years after the effective date of these regulations shall be removed within sixty (60) days of said effective date or the date the container reaches the age of thirty (30) years, whichever is later. The Board of Selectmen may authorize use of a tank over thirty (30) year old (based upon the written recommendation of the Fire Department).

- 3. Each container must be designed to prevent the flow of petroleum product to exposed soils, drains or surface waters and groundwater.
- 4. Outdoor storage, if permitted by zoning, must be designed to protect from the elements, accidental damage and vandalism.
- 5. Areas for storage of petroleum products shall be clearly delineated and signs posted clearly describing the nature of the storage area. Each container must be clearly labeled with the name of the petroleum product. Containers of petroleum products which are in their original labeled product containers and which are or will be displayed for retail sale are not required to be labeled in accordance with this subsection. The Board of Selectmen and/or the Fire Department may require storage areas to be fenced.
- 6. Each container shall be stored in such a manner as to facilitate visual inspection of said container.

7.1.4.2 - Enforcement

The Board of Selectmen, the Reading Fire Department, or their agent may enter, according to law, upon any site at any reasonable time to inspect for compliance with these Regulations and with the conditions of the permit, and for threat of release.

Upon request, the owner or operator of any site identified on a permit shall furnish to the Reading Fire Department all information required to monitor compliance with these Regulations and the conditions of any permit, renewal permit, or amended permit issued hereunder.

7.1.4.3 - Violation Notices and Orders

The Board and/or the Reading Fire Department, or their agents, are authorized to issue notices of violation, cease and desist orders, and other enforcement orders to compel compliance with these Regulations, the Bylaw under which these Regulations are adopted, and the conditions of any local permit issued by the Board as the Board or the Fire Department deems necessary and appropriate.

The Board and/or the Reading Fire Department, or their agents, shall give written notice of any violation to the operator and owner of the site. Such written notice shall specify the nature of the violation; any corrective measures that must be undertaken, including containment and cleanup of discharged materials and sampling and analysis before, during, and after cleanup; any preventive measure required for avoiding future violations, including long-term monitoring; and a time for compliance to be specified by the enforcing agent.

Any requirements specified in a violation notice or an order shall be reasonable in relation to the public health hazard involved and the difficulty of compliance, but shall not be less than required under Federal or State law.

The cost of containment and cleanup shall be borne by the owner and/or operator of the site. All costs that the Town incurs in any cleanup process shall be borne by the owner and/or operator of the site and shall be collectable as a charge owed the Town in accordance with Section 58 of Chapter 40 of the General Laws.

7.1.4.4 - Penalties

Any person who violates any provision of this Regulation shall be fined as provided in Section 1.5 of the Bylaws of the Town of Reading. Each day that an individual fails to comply with a notice or order under the Bylaw or Regulations shall constitute a separate violation.

After notice in accordance with Section 4.3 above, the Board after notice and hearing may suspend, modify or revoke any permit, renewal permit, or amended permit issued under these Regulations for due cause, which shall include but not be limited to failure to comply with any section of these Regulations or the Bylaw, failure to perform the conditions set forth in the approved contingency plan, or violation of any condition of a permit, renewal permit or amended permit.

Adopted May 1, 2007